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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/531,985

04/20/2005

Klaus Stoeckl

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06/25/2007

DYKEMA GOSSETT PLLC  
FRANKLIN SQUARE, THIRD FLOOR WEST  
1300 I STREET, NW  
WASHINGTON, DC 20005

EXAMINER

YUN, JURIE

ART UNIT

PAPER NUMBER

2882

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/531,985	<b>Applicant(s)</b> STOECKL, KLAUS	
	<b>Examiner</b> Jurie Yun	<b>Art Unit</b> 2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-15 is/are rejected.
- 7) ☒ Claim(s) 7 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/20/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The preliminary amendment filed 4/20/05 has been entered.

#### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: there appears to be a typo in line 2, where "patent" should perhaps be "patient." Appropriate correction is required.
3. Claim 6 is objected to because of the following informalities: there is lack of antecedence for "said predefined angular position." It is assumed that claim 6 depends on claim 5, and has been treated as such. Appropriate correction is required.
4. Claim 8 is objected to because of the following informalities: there appears to be a typo in that perhaps "replaceble" should be "replaceable." Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 13, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Drawings***

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "bite piece occupies an angle beta of the dental arch with ranges from 20 degrees and 40 degrees" as claimed in claim 13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3, 9-11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molteni et al. (USPN 6,424,694 B1) in view of Schantz (USPN 2,123,210).

10. With respect to claim 1, Molteni et al. disclose a bite device (Fig. 7, 14) for correct positioning of a patient for taking a radiograph with a panoramic X-ray device (12a), comprising a holding member (11) that can be located in a directionally stable position relative to said X-ray device, and a plate (Fig. 8, 13) that can be pivoted relatively to said holding member (see Figs. 8a & 8b) and which exhibits a bite piece (14), on which the patient bites.

Molteni et al. disclose indicia (100) used to help align any of the vernier adjustments taught (column 5, lines 45-47), the indicia disposed in a region of the occlusal system which is free from X-ray irradiation when the radiograph is taken, but do not specifically disclose the indicia is used for detecting the angle of deflection alpha between said plate and said holding member, as is correlated with the degree of inclination of the occlusal plane. Schantz discloses means (Fig. 4) for detecting the angle of deflection alpha between said plate and said holding member, as is correlated with the degree of inclination of the occlusal plane, which means are disposed in a

region of the occlusal system which is free from X-ray irradiation when the radiograph is taken (column 1, lines 1-52 & column 2, lines 31-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Molteni et al. to provide means for detecting the angle of deflection alpha between said plate and said holding member, as is correlated with the degree of inclination of the occlusal plane, which means are disposed in a region of the occlusal system which is free from X-ray irradiation when the radiograph is taken, in order to produce distortion free images and to enable reproducing the images taken from the same angle in the future for comparison purposes, as taught by Schantz.

11. With respect to claim 2, Molteni et al. as modified by Schantz disclose said means for detecting the angle of deflection alpha comprise one or more sensors (Schantz - Fig. 4) disposed in said holding member.

12. With respect to claim 3, Molteni et al. as modified by Schantz disclose means (Schantz - Fig. 4) for indicating the angular position of the pivoted plate are provided.

13. With respect to claim 9, Molteni et al. disclose said bite piece (14) is in the form of a replaceable bite piece (column 3, lines 26-42).

14. With respect to claim 10, Molteni et al. disclose said bite piece is of a soft material (column 3, lines 26-42).

15. With respect to claim 11, Molteni et al. disclose said bite piece (14) is of a substantially radiolucent material (column 3, lines 26-42).

16. With respect to claim 13, Molteni et al. disclose said bite piece (14) occupies an angle beta of the dental arch with ranges from 20 degrees and 40 degrees and is, in particular, approximately 30 degrees.

17. With respect to claim 14, Molteni et al. disclose said bite piece has, on its upper surface and on its undersurface respectively, a bite groove for the accommodation of the dental arch of the upper and lower jaws of the patient (see Fig. 5a).

18. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molteni et al. (USPN 6,424,694 B1) in view of Schantz (USPN 2,123,210) as applied to claim 1 above, and further in view of Arai et al. (USPN 6,118,842).

19. With respect to claim 4, Molteni et al. and Schantz do not disclose driving means are provided for vertical adjustment of said holding member and thus to pivot said plate. Arai et al. disclose driving means are provided for vertical adjustment of said holding member and thus to pivot said plate (column 7, line 53 - column 8, line 6 & column 16, lines 26-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Molteni et al./Schantz to have driving means provided for vertical adjustment of said holding member and thus to pivot said plate, to ensure accurate positioning and thus better imaging.

20. With respect to claims 5 and 6, Arai et al. disclose said driving means move said plate automatically into a predefined angular position and stop when said predefined angular position is attained (column 7, line 53 - column 8, line 6 & column 16, lines 26-

32), wherein said driving means indicate when said predefined angular position of said plate is attained by means of optical and/or acoustic signals (Fig. 29, 373).

21. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molteni et al. (USPN 6,424,694 B1) in view of Schantz (USPN 2,123,210) as applied to claim 1 above, and further in view of Levy (USPN 5,327,477).

22. With respect to claim 8, Molteni et al. and Schantz do not disclose said bite piece is provided with a replaceable protective sheath. Levy discloses this (column 8, lines 1-2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Molteni et al./Schantz to provide the bite piece with a replaceable protective sheath, as taught by Levy, to protect the patient.

23. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molteni et al. (USPN 6,424,694 B1) in view of Schantz (USPN 2,123,210) as applied to claims 1 and 9 above, and further in view of Waldo (USPN 4,815,117).

24. With respect to claim 12, Molteni et al. and Schantz do not disclose said bite piece is made of closed-cell ethylene foam. Waldo discloses this (column 3, lines 4-11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Molteni et al./Schantz to have the bite piece made of closed-cell ethylene foam, to provide greater comfort to the patient, as taught by Waldo.

25. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molteni et al. (USPN 6,424,694 B1) in view of Schantz (USPN 2,123,210) as applied to claims 1 and 9 above, and further in view of Brooks (USPN 5,001,738).

26. With respect to claim 15, Molteni et al. and Schantz do not disclose said bite piece is a unitary piece and is foldable along a folding edge. Brooks discloses said bite piece (12) is a unitary piece and is foldable along a folding edge (24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Molteni et al./Schantz to have said bite piece be a unitary piece foldable along a folding edge, to make it compact, easy to store and easy to use.

***Allowable Subject Matter***

27. Claims 7 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

28. The following is a statement of reasons for the indication of allowable subject matter: Prior art fails to disclose a bite device for correct positioning of a patient for taking a radiograph with a panoramic X-ray device, wherein said pivoted plate is connected to a rail which is disposed in said holding member, is capable of being moved upwardly and downwardly and has an opening for the purpose of positioning said rail in said holding member, as claimed in claim 7.

Prior art fails to disclose a bite device for correct positioning of a patient for taking a radiograph with a panoramic X-ray device, wherein said bite piece is in the form of a replaceable bite piece, and has, on opposite sides thereof, a wedge-shaped tapered

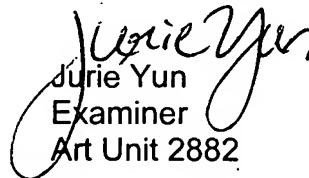
projection and a complementary recess for the accommodation of said projection for releasably fitting said bite piece to said pivoted plate, as claimed in claim 16.

***Conclusion***

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jurie Yun whose telephone number is 571 272-2497. The examiner can normally be reached on Monday-Friday 8:30-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on 571 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jurie Yun  
Examiner  
Art Unit 2882

June 17, 2007